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Message Text

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ORIGIN EB-08

INFO OCT-01 EA-10 ISO-00 L-03 JUSE-00 SEC-01 FTC-01
OES-07 CIAE-00 INR-07 NSAE-00 PM-05 NSC-05 SP-02
SS-15 ACDA-12 IO-13 NRC-05 SOE-02 DODE-00 DOE-11
COME-00 /108 R

DRAFTED BY EB/IFD/BP:TASCHLENKER:VJW
APPROVED BY EB/IFD/BP:HJWINTER
L/EB - SBENSON
EA/ANP - TWAJDA
JUSTICE - FBANNEN (INFO)
----------054888 041805Z /70
R 040801Z PEB 78
FM SECSTATE WASHDC
TO AMEMBASSY CANBERRA

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E.O. 11652: GDS

TAGS: ETRD, AS, US

SUBJECT: ANTITRUST: GOA REPLY TO DOJ REQUEST TO RELAX REGULATIONS TO ALLOW COOPERATION WITH URANIUM PRODUCERS CARTEL ACTIVITY

1. AUSTRALIAN EMBASSY LEGAL ATTACHE ST. JOHN AND POLITICAL OFFICER THWAITES ORALLY INFORMED DEPARTMENT FEBRUARY 2 THAT GOA HAD DECIDED THAT IT COULD NOT RPT NOT RELAX ORDERS MADE UNDER FOREIGN PROCEEDINGS (PROHIBITION OF CERTAIN EVIDENCE) ACT AS REQUESTED BY DEPARTMENT OF JUSTICE (DOJ) FOR THE GRAND JURY INVESTIGATION OF ALLEGED CARTEL ACTIVITY BY INTERNATIONAL URANIUM PRODUCERS. TEXT OF THE AUSTRALIAN TALKING POINTS IS GIVEN BELOW:

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2. QUOTE: 1) AUSTRALIAN GOVERNMENT HAS GIVEN CAREFUL CONSIDERATION TO THE MATTERS MENTIONED BY THE JUSTICE DEPARTMENT OFFICERS IN SUPPORT OF THE REQUEST THAT THE ORDERS MADE UNDER THE FOREIGN PROCEEDINGS (PROHIBITION OF CERTAIN EVIDENCE) ACT BE RELAXED.

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-- IN PARTICULAR, RELAXATION OF THE ORDERS WAS SOUGHT
TO ENABLE EVIDENCE TO BE OBTAINED IN REGARD TO -

-- . WHEN THE URANIUM CARTEL CAME TO AN END,

-- . WHAT CONTACTS MEMBERS OF THE CARTEL MAY HAVE
-- HAD WITH UNITED STATES PRODUCERS,

-- . WHETHER THE CARTEL ADOPTED A POLICY THAT ITS
-- MEMBERS SHOULD ONLY CONTRACT FOR FUTURE
-- SUPPLIES OF URANIUM ON THE BASIS OF WORLD
-- SPOT MARKET PRICES AT THE TIME OF DELIVERY,

-- . INFORMATION RELEVANT TO THE CONTENTION OF THE
-- CANADIANS THAT THE CARTEL EXCLUDED THE UNITED
-- STATES FROM ITS OPERATIONS.

2) AUSTRALIA COULD NOT AGREE TO A PROPOSAL FOR AMENDMENT
OF THE ORDERS IN QUESTION IF THIS WERE IN ANY WAY TO
INVOLVE A RISK THAT THE PURPOSE OF THE FOREIGN PROCEED-
INGS (PROHIBITION OF CERTAIN EVIDENCE) ACT WOULD THEREBY
BE FRUSTRATED.

-- THE ACT WAS PASSED BY PARLIAMENT WITH BIPARTISAN
-- SUPPORT TO PROTECT ARRANGEMENTS THAT HAD BEEN MADE
-- FOR THE MARKETING OF AUSTRALIAN URANIUM,

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-- THOSE ARRANGEMENTS HAD BEEN MADE WITH THE APPROVAL
-- AND SUPPORT OF THE AUSTRALIAN GOVERNMENT,

-- PARLIAMENT ACTED BECAUSE THERE WAS APPREHENSION
-- IN AUSTRALIA THAT, IF THE ACT WAS NOT PASSED,
-- THE ARRANGEMENTS WOULD BE CALLED INTO QUESTION
-- BY UNITED STATES COURTS IN PROCEEDINGS THAT COULD
-- BE BOTH DETRIMENTAL TO AUSTRALIA'S NATIONAL INTER-
-- EST AND INCONSISTENT WITH INTERNATIONAL LAW AND
-- COMITY.

3) THE ATTORNEY-GENERAL HAS CONCLUDED THAT IT IS NOT
PRACTICABLE TO ENABLE EVIDENCE TO BE GIVEN OF THE MATTERS
MENTIONED BY THE JUSTICE DEPARTMENT WITHOUT GIVING RISE
TO A RISK THAT THE EVIDENCE WOULD BE USED IN PROCEEDINGS
OF THE KIND THAT LED TO THE PASSING OF THE ACT.

-- IN THIS CONNECTION, IT HAS BEEN NOTED THAT -

-- (A) THE EVIDENCE NOW SOUGHT IS NOT RESTRICTED
-- TO MATTERS THAT WOULD BE EXCLUSIVELY RELE-

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-- VANT TO UNOBJECTIONABLE PROCEEDINGS, AND

-- (B) IT IS QUESTIONABLE WHETHER A RESTRICTION
-- ON USE THAT MIGHT, AS SUGGESTED IN THE
-- DISCUSSIONS, BE AGREED TO BY THE JUSTICE
-- DEPARTMENT (E.G., A CONDITION THAT DOCU-
-- MENTS WERE NOT TO BE MADE AVAILABLE TO
-- WESTINGHOUSE) WOULD BE ACCEPTED BY A
-- UNITED STATES COURT AS STANDING IN THE
-- WAY OF ENFORCEMENT OF A SUBPOENA BY
-- SUCH A THIRD PARTY.

4) FOR ABOVE REASONS, THE AUSTRALIAN GOVERNMENT REGRETS THAT IT IS UNABLE TO SEE ITS WAY CLEAR TO ACCEDE TO THE REQUEST FOR AMENDMENT OF THE ORDERS. UNQUOTE VANCE
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*** Current Classification *** LIMITED OFFICIAL USE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ANTITRUST, CARTELS, URANIUM
Control Number: n/a
Copy: SINGLE
Draft Date: 04 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE030436
Document Source: CORE
Document Unique ID: 00
Drafter: TASCHLENKER:VJW
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Expiration:
Film Number: D780054-0377
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197802116/aaaaftfp.tel
Line Count: 141
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON MICROFILM, TEXT ON-LINE
Message ID: 1ccd21cf-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3466223
Secure: OPEN
Status: <DBA CORRECTED> gwr 970903
Subject: ANTITRUST: GOA REPLY TO DOJ REQUEST TO RELAX REGULATIONS TO ALLOW COOPERATION WITH URANIUM PRODUCERS CARTEL ACTIVITY
TAGS: ETRD, AS, US
To: CANBERRA
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/1ccd21cf-c288-dd11-92da-001cc4696bcc
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